IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA:

RFA.No.355 of 2000.

Date of Decision :28th November, 2007.

Ram Sarup. …Appellant.

Versus:

Land Acquisition Collector. …Respondent.

Coram:

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for judgment?[1]

For the appellant: Mr.Ajay Sharma, Advocate. .

For Respondent. Mr.Virender Verma, Addl. Advocate General.

Sanjay Karol, J(Oral).

The present appeal arises out of the award dated 25th February, 2000 passed by the District Judge, Una, H.P. in Land Reference Case No.1 of 1996 titled as Ram Sarup Vs. Land Acquisition Collector.

For the public purpose i.e. construction of Tiuri/Badoli road, the respondent acquired the appellant's land measuring 0-02-52 hectares out of Khewat No. 360/568 Khasra Nos.5030 and 5031 situate in village Tiuri, Tehsil and District, Una, H.P. A notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) was published on 25th August, 1993 and finally the land was

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

acquired in terms of award No.14 dated 5th October, 1995. The Collector awarded a sum of Rs.99,585/- as compensation for the entire acquired land.

Being dis-satisfied with the same, the appellant filed a Reference Petition under Section 18 of the Act which was registered as Land Reference Case No.1 of 1996. The appellant claimed enhancement of the compensation awarded on the ground that it was not based on the prevailing market rates and no compensation for the acquisition of Khair trees in existence at the time of taking over the possession of the land in the year 1980 was awarded.

In order to prove its case, the appellant examined three witnesses and the respondent also examined three witnesses. After considering the entire material on record, the court below came to the conclusion that there was nothing on record to justify the enhancement with regard to the compensation of the acquired land.

I have heard the learned counsel for the parties and perused the record.

The learned counsel for the appellant has submitted that the compensation awarded by the Collector is far less than the prevailing market rates which is evident from Ext.PA.

Ext.R-1 is the copy of the sale deed dated 9th December, 1992 whereby the land measuring 0-58-26 hects. was sold for a sum of Rs.36,500/-. Ext.PA is another

document whereby four Marlas of land was sold for a sum of Rs.4,000/-.These are the only documents on record showing the market value of the land prevailing at the time of issuance of notification under Section 4 of the Act.

The sale deeds pertain to the very same village of the acquired land. However, there is nothing on record to show that the land sold in terms of the said sale agreement is similar to that of the land in question. Be that as it may be, on a query put to the learned counsel for the appellant, he has fairly stated that the value of the land covered by the said sale deeds actually works out to be less than the value of the acquired land for which the compensation stands awarded by the Collector. There is no other evidence on record to show the true and fair value of the land than what has already been awarded by the Collector in terms of his award.

It is the contention of the appellant that even though the land was formally acquired in the year 1995-96, the possession of the land in question was taken over in the year 1980 for the purpose of construction of road. In my view, there is no evidence on record to substantiate the averment of the appellant.

Further, the plea of the appellant that he ought to have been awarded the compensation for the acquisition of Khair trees on the land needs to be rejected for the simple reason that there is no evidence on record to show the

quantity, quality, nature and the value of the khair trees existing on the land in question.

For the aforesaid reasons, I see no reason to interfere with the judgment of the District Judge. The appeal is accordingly dismissed.

(Sanjay Karol),
Judge.

November 28, 2007(R)